AN APPENDIX TO THE LATE ANSWER, Printed by His Majesties COMMAND:

OR,

Some seasonable ANIMADVERSIONS upon the late *Observator*, and his seaven *Anti-monarchicall* ASSERTIONS.

TOGETHER

With a VINDICATION of the KING,

And some OBSERVATIONS upon the *TWO HOUSES.*

Printed *Anno Dom.* 1642.

Seasonable Animadversions upon the late *Observator*, and his seaven *Anti-monarchicall* Assertions.

BIBLIOTHECA BODLEIANA

IT is usuall (I know) for Books to have Prefaces, and Playes Prologues; but whosoever peruseth this, must expect nothing but concise reasons; forasmuch as *Unusquisque suo sensu abundat*, so let him reflect and censure of this at his pleasure.

The Observator, pag. 1. saith, *That power is originally inherent in the people, &c.*

To this the answer is, that power is in God *primariò & per se*, according to that of the Apostle; *Rom.* 13. and in the King or people, but onely *secundariò & derivativè*: Power or Dominion is not a gift of Nature, that is to say, naturally inherent in us; for if it were, then might all men have equall power, for that by nature we are all equall; but power is a gift of God to Nature, and is *gratia gratis data*; and yet power is congruous in nature, as was the power of King, and office of Priesthood in *Melchisedec*: for surely he had them both given, or appointed to him by God, being by interpretation *King of Righteousnesse, and King of Peace, Heb.* 2. 7. And therefore it is not likely that he usurped to himselfe the Regall title of King, no more then he did of being Priest; and yet it was very probable that it was also agreeable in Reason and Nature, and although not tyrannicall, yet peaceable Kingly reigne, and sacred Priesthood did fitly belong to him: for he is by most Divines thought to have been *Sem*, the eldest sonne of *Noah*; and by the law of Nature, of *Moses*, and of most Nations, the eldest is to inherit; so that what was the right of *Adam*, *Seth*, and *Noah*, might belong unto him by birthright, although it may be God confirmed it unto him extraordinarily. But to returne, power and dominion is derived from God, and congruous in Nature: but the power is in the people onely, when they are absolutely free to chuse to themselves what forme of government they please, as were the Jewes before they subjected themselves to Kings, being formerly freed from the bondage of Egypt by the finger of God. The *Romanes* when they erected their Senate and

Seth and his generation began first to call upon the name of the Lord, that is to say, to give to God some set forme of worship, as Priests did, &c.

and Conſuls, having rebelliouſly (for it was no better) ſhaken off the yoke of Kings. The *Venetians*, when they firſt inſtituted their Common-wealth. But in Monarchies, where the people have been brought into ſubjection, either by the ſword, as in *Turky*, *Perſia*, and the like; or by innate, and preſcribing, and prevalent authority, as in *Florence*; or by both, as in *France* and *Caſtile*; in theſe Dominions power is not inherent in the people, but in the Prince. And although ſome hereditary Monarches are more limited then others, as is the King of *France* more then the great *Turke*, and the King of *England* more then the King of *France*: yet is their power derived immediately from God, and inherent in themſelves, not in the people: for thoſe limitations are (in conquered Nations) but mere donatives of grace, proceeding from the Prince or his Succeſſors to the people, touching certaine immunities and priviledges; ſo that the Prince his power is the efficient cauſe of them, and ſuch immunities or priviledges are but as materiall effects. Now as it is moſt improper to ſay, that the effect ſhould cauſe his owne cauſe, ſo is it to ſay, that a priviledged people ſhould cauſe the Princes power, or that *Power ſhould remaine originally in ſuch a priviledged people.*

Some Nations elect their Kings, or Princes, and reſtraine them far more by conditionall inaugurations, then hereditary Monarches are, or ought to be reſtrained or limited: Yet have not ſuch Nations power in themſelves totally, but onely partially; that is, they have power to conditionate with their Kings or Princes, how farre forth they will be ſubject, and by what Rules they will be governed; but they have not power to conditionate with their Kings or Princes, that they will only be ſubject at their owne pleaſures, and as themſelves ſhall thinke good; that is to ſay, if they pleaſe at any time to aſſume more liberty unto themſelves, and to alter and diſanull former Conſtitutions of Government, that they may do it without the conſent of their Kings or Princes. This they cannot doe without treaſon to their Crownes or Diadems: For although the perſons of ſuch Princes be elective, yet is their power permanent, *jure conſtituto Corona*; which though they claime not as from progenitors, yet are they inveſted therewith as from Predeceſſors. And therefore being enthroned, they enjoy their dignities by preſcription; that is to ſay, what belonged to their Predeceſſors, belongeth in the ſame manner to them, being once inveſted; nor can ſuch Nations revolt from their elected Princes, without being reputed Rebels.

Now of this nature are the Kings of *Poland*, *Hungary*, and ſome other (to ſpeake nothing of the Duke of *Venice*, for he is meerly titulary, and a cypher) and ſuch Kings firſt and principally claime their authority from God the author of all power, who enſpheareth them in the Orbe of dignity above others.

And ſecondly, they acknowledge it from the generall conſent of the Nation, which made choyce of them, and over which they rule. And ſurely ſuch was the right and title of *Saul*, the firſt King of Iſrael: for he was appointed by God, 1 *Sam.* 9. 17. then anointed by *Samuel*, Chap. 10. v. 1. afterwards approved by the people, *ibid.* verſ. 24. And finally, confirmed in his Kingdome, Chap. 11. verſ. 14. And in the ſame manner was *David* likewiſe eſtabliſhed in his Kingdome; ſo that their firſt and chiefe claime was immediately from God, and their ſecond from the conſent of the people. Nor is it of any conſequence to alledge, as the Obſervator ſeemeth to inferre, *pag.* 1. that thoſe Kings had an extraordinary Inſtitution from God; and therefore they might more lawfully claime their right, as appointed and appropriated to them by God. For to ſuch Allegation it will be anſwered, That *there is no power but of God*, *Rom.* 13. So that whether God inſtitute Kings by extraordinary, or ordinary meanes, it maketh no matter. For although *Saul* and *David* were inſtituted extraordinarily by Gods ſpeciall appointment; yet moſt of the Kings of Judah and Iſrael reigned after them but by ordinary ſucceſſion; had they not therefore the ſame power that *Saul* and *David* had? Surely the Scriptures tell us they had. The Prieſts and Prophets in the old Law had an extraordinary vocation, eſpecially the Prophets: the Prieſts or Miniſters of the Goſpell have but an ordinary vocation, are they therefore defective in power to thoſe of the old Law? or have they not their vocation from God, becauſe they have not extraordinary calling? Surely no. For how could Sacraments be adminiſtred, and the word preached? So is it with Monarchs: For though they have but ordinary ſucceſſion; yet is their power immediately from God. Our Soveraigne is a free (though in ſome things a limited) Monarch, and derived therefore his power immediately (not mediately, as do other inferiour Miniſters of juſtice) from God. And as touching limitations and priviledges, they are nothing elſe (as is aforeſaid) but acts of grace conferred on this Nation by His Majeſties predeceſſours in ſeverall ages, and at ſeverall times, and ſome of them lately by His Majeſty himſelfe, as the continuation of this preſent Parliament, the aboliſhing of the Starre-Chamber, and

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High Commiſſion cenſures, and the like. But theſe priviledges, and others granted to the ſubjects, diſinveſt the King of no primary, or Birth-right-royalty, but onely oblige him in honour to obſerve them as covenants. A Lord purchaſeth a Mannor for himſelfe and his Heires for ever; his ſonne and ſucceſſors grant certaine Franchiſes to the tenants, and oblige their heires for ever to performe them: ſo the tenants live in a more free ſtate and condition, then they did in the firſt purchaſers dayes; and paying their rents, and performing their ſervices, they are not altogether ſubject to be turned out at the pleaſure (or rather diſpleaſure) of the Lord; but doth this Franchiſement or freedome of theirs, cauſe the Lord to derive his right or title from his tenants? Law and experience tels us no. And this is our Soveraignes caſe; The Conquerour by his ſword, or by deed of gift, or rather indeed by both, came in as a purchaſer of the Kingdome of England, for himſelfe, and his heires for ever, and by the Law of conqueſt had power to have made greater alteration in the State then he did, and to have induced what forme of government he had thought good, even as the King of *Spaine* hath done in *Navarre*, and the *Weſt Indies*; yet hee did not, but onely impoſed ſome hard things, as the having of Lawes in the French tongue, which the people generally underſtood not, *Coverfue-bell*, and the like: his ſucceſſours afterwards did immune, and eaſe the people from ſuch grievances, ſo that they lived, and live at more liberty, and enjoy more ſecurely their liberties and properties. But do therefore ſuch immunities granted to the people, cauſe the King to derive his power and right from the people? The Lawes and cuſtomes of all Nations and Kingdomes that live under Monarchs, tell us no. The ancient and preſent Monarchies of the world being ſufficient witneſſes thereof, beſides the *Dictamen* of Scripture, and reaſon already inferted.

The Obſervator, *pag.* 2. ſaith, that it is an errour in ſome Princes, *to ſtrive more to be great* over *their people, then* in *their people*. It may be ſome Princes have committed ſuch an errour; but withall let the Obſervator take notice, that it is convenient for a free Prince to be both; that is to ſay, to have them wealthy, and yet obedient Subjects: for if he be onely great *in* his people, and not *over* them, hee may reſemble the now Roman, or German Emperor, or the ancient Kings of France, the one whereof is daily in danger to be diſ inveſted by commotion, & combinations of his Princes; the other were heretofore almoſt continually moleſted by factions of their Peeres and people: And ſure the

French themselves have greatly occasioned the heavie burthen of divers tributes and impositions which they undergoe: for they ever and anon rising in Armes against their King, gave him occasion to enslave them the more by his reconquering of them, or reducing them into his obedience, so that had they subsisted in due allegiance, 'tis likely their King had been as equally great *over* as *in* them; which equality, or parity in government, is (no doubt) the most happy and blessed counion that any Prince and people can enjoy.

The Observator telleth us in the same page, that the King, though he be *singulis major*, yet he is *universis minor*. But why so? The Head Naturall is not only *singulis*, but also *universis membris majus dignitate*, (though it may, 'tis not so *in universis*, as shall be by and by declared) For the Head hath in it selfe all Senses, other Members receive from it, but Feeling only, and Motion; the head governeth and directeth the whole Body, and is therfore in dignity more Noble then all the Members of the Body considered together: and yet though it be more noble and excellent then them all; (for as much as Motion and Feeling dimane from the Braine, which is in the head, to them all) notwithstanding *in universis*, in all things, or faculties, the head is not more excellent then all the members; for the Heart is the seat of Life (according to most Philosophers) being *primum vivens, & ultimum moriens*, and from it proceedeth naturall heat; the stomacke likewise administreth sustenance, and aliment; the Feet goe, and the Hands worke, and without them the head cannot subsist, yet are they all subordinate to the Head: and even so is it, or ought it to be in the body politicke, unlesse we must beleeve the Observator, who in his 19. *Page* saith, That *the Head Politicall receives more subsistence from the Body then it gives, &c.* But by his leave, if priviledges and Immunities are (as they are) matters of Grace, proceeding from free Monarchs (for of such the Treatise is) to the people, do not such Heads give as much subsistence to the body Politicke, as they receive from it? The Observator telleth us, *Pag.* 6. That *Edward the first was the first* (whether he were, or not, it is not materiall) *that repaired the Breaches which the Conquest had made upon this Nation:* if so, did not hee, by such his reparation, give as much subsistence to the Common-wealth, as he received from the Common-wealth, or Body Politicke? And do not his Successors give likewise as much as they receive, when they conferre the like acts of Grace? Surely, hee that considereth rightly *Magna Charta*, and all other

other Priviledges and Immunities, which now extend to the free-borne people of this Kingdome, will finde them first to have proceeded from the Grace and Grant of our Kings: and therefore it is improper to say, That *the Head Politick doth not give as much subsistence to the Body Politick, as it receives from it.*

The Observator saith likewise in his second *Page*, That *id quod efficit tale, est magis tale*; meaning thereby, that the people conferring, as the efficient cause, Power on the King, have joyntly more Power in themselves.

It hath been shewed already, that free Monarchs, such as our King is, derive not their power from the people, but immediately from God: But suppose our King did secundarily acknowledge his power from this Nation's generall consent; as it may be, the King of *Poland* doth acknowledge his power in part from the Aristocracie of that Kingdome; and as *Saul* and *David* did in part from the *Jewes* approbation and consent: notwithstanding, it followes not from hence, that the people are the sole efficient cause of the Kings power, but onely the secundary and partiall. Now, when it is said, that *id quod efficit tale, est magis tale*, it is to be understood of entire and totall causes; but in this case, the people being at the most but the partiall cause of the Kings power, the Axiome or Rule faileth: as for example, the Moone being of her selfe a body darke, receives her light (at least-wise her chiefest) from the Sunne, as from an entire cause; the Sunne is therefore truely said to be more light, being the totall subordinate cause of light; in this case therefore it is truely said, *id quod efficit tale, est magis tale*: but the Sunne, *mediante homine, producit hominem*; *& mediante Leone, Leonem*; *& mediante Planta Plantam*; for that the Sunne affordeth to all sensible and vegetable creatures an influx of vigour and naturall heat: yet for as much as the Sunne is, in the production of these creatures, but a partiall, and not an integrall cause, it were absurd to say, that the Sunne were more a man, then is a man; or more a Lyon, then is a Lyon; or more a Plant, then is a Plant: and so is it to say, that because a King may acknowledge his power in part received from the peoples generall consent, that therefore the people have more power then himselfe.

The Observator telleth us, *Page* 3. That *the Kings dignity was erected to preserve the Communalty, the Communalty was not created for his service.*

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This is somewhat too harsh, especially if we consider our King to be, *in all Causes, as well Ecclesiasticall as Civill, next and immediately under Christ, supreame Head and Governour*: such words would have beene better accommodated to a Duke of *Venice*, then to a King of *England*. The *Jewes*, I beleeve, when they asked a King at Gods hands, were somewhat inclining to the Observators opinion; for they desired a King for their owne ends, chiefly to judge them, and to fight their Battailes; not well considering, that if they had a King, hee must and ought to have a Kingly Dominion over them: Wherefore God caused the Prophet *Samuel* to instruct them concerning the Præeminence of a King; and, that if they would have a King, a King would be such, and such a man, as is evidently characterized in the first of *Samuel, chap.* 8. where amongst other things, *vers.* 17. the Prophet saith, *He will take the Tenth of your Sheepe, and yee shall be his servants*: Where, by the word *will*, he sheweth the Authority which Kings would have; and by the word *shall*, hee sheweth the obedience that Subjects should have: nor did the Prophet speake of some, or to some few onely; but of all, and to all the people, (at least-wise to all the chiefest of them) saying, *Yee shall be his servants.*

I desire therefore that the Observator, and all his other adherents, would take more speciall notice of this Text of the Prophet, and that of Saint *Pauls* confirmation of this Text, *Let every soule be subject to the higher Powers*: For, though Christian Monarches ought not, by the Rules of Christianity, to Tyrannize, or make our Sonnes their Slaves, or our Daughters their Concubines, and the like; as did many of the Kings of the *Gentiles*, and some of the *Jewes*; yet ought they not to be thought so contemptible, as that the Communalty was no way created for their service.

The Observator saith in the same Page, *That the right of Conquest cannot be pleaded to acquit Princes of that which is due to the people, as the authors and ends of all Power; for meere Force cannot alter the course of Nature, and frustrate Law; and if it could, there were more reason why the people might justifie Force to re-gaine due liberty, then the Prince might to subvert the same.*

By the Observators leave, for his first Clause it is answered already, That in Monarchies the people are not the authors or ends of Power. For the second Clause, *That meere Force cannot alter the course of Nature, or frustrate the tenour of Law*; that is to say, That meere

meere Force cannot captivate and debaſe a people by nature free, and living under a law of common conſent. I ſuppoſe the words, *cannot alter*, ſhould have beene, *cannot, de jure, alter; or ought not to alter, &c.* For that force can alter, and *de facto* hath altered the freedome and lawes of People and Nations, is knowne to moſt men; Hiſtories and Chronicles teſtifying to the world the ſeverall alterations and formes of Government which Conquerours have induced; but whether they ought ſo to have done, is a queſtion. Yet ſhould the Obſervator and his adherents take advice, that though in Nature there is a parity of mankinde, and therefore Dominion may not ſeeme to be intended by Nature, yet God the author of Nature, fore-ſeeing the fall of Man, and the depravation in Nature, which did enſue thereof intended power and dominion, and that ſome ſhould bee maſters, and others ſervants; ſome command, and others obey; ſome ſhould become ſlaves to Tyrants, others ſubjects to free Monarches; others members of popular Eſtates: and theſe things God hath ordained by his divine wiſedome according to his will, and diſpoſes and alters them at his pleaſure: *But as for the pot, it ought not to ſay to the Potter, Why haſt thou made me thus?* It is enough for it to know, that there is no power but of God, and ſo to be applyable to the uſe it was made for; if for honour, to honour; if for ſervility, to ſervility; being ſubject *for conſcience ſake*: *Rom.* 13. 5.

Of a ſtrange nature therefore are thoſe words, viz. *There were more reaſon why the people might juſtifie force, to re-gaine due liberty, then the Prince might to ſubvert the ſame.* If this Doctrine had beene good, our Saviour would ſurely have counſelled the Jewes (when they asked him whether it were lawfull to give tribute to *Cæſar*) to have kept their money in their purſes, or to have made up a ſtock of it, and by force to have ſought to re-gaine their due liberty from *Cæſar*, and not have bid them *Give unto Cæſar what is Cæſar's.* If it be alleadged, that in caſe Chriſt had counſelled the *Jews* ſo, they would have played the *Jews* indeed, and have accuſed him of high Treaſon: What then? Would Chriſt have concealed, or did he at any time conceale the truth for feare of the *Jewes* accuſations? When he was conjured to expreſſe whether or no he were the Sonne of God, (a thing more hatefull to the *Jewes* eares, then the denying of tribute could have beene to the eares of the *Romans*) Chriſt anſwered, *Thou haſt ſaid it*; which is as much as *Yes.* But

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ſuppoſe the *Jewes* would have accuſed him of high Treaſon, in caſe he had denied tribute to *Cæſar*, and that God would not have ſuch a vile imputation as Treaſon laid on the Redeemer of the World: Yet had re-gaining of due liberty by force beene lawfull, Chriſt might have ſaid, *Yee may give tribute to Cæſar*, in the Potentiall Mood, (in which words no exceptions could have beene taken) and not have ſaid, *Give tribute to Cæſar*, or *Give unto Cæſar what is Cæſar's*, in the Imperative Mood. Or otherwiſe, when they asked him, *Whether it were lawfull to pay tribute to Cæſar*, he might onely have anſwered them, *Yes*; but fore-ſeeing in his divine wiſedome, that ſome indirect conſtructions might bee made of ſuch a ſingle word as *Yes*, 'tis lawfull to pay it, yee may pay it if yee pleaſe, 'tis not againſt the law of God, if yee doe pay it, &c. therefore Chriſt bid them ſhew him a piece of money, and bid them *Give it unto Cæſar*, informing the covetous mindes of that perverſe people, that they ought and were obliged to part with their money and ſubſtance to *Cæſar*, if demanded as a tribute. But to let Arguments of Divinity paſſe, and to induce a few State-reaſons: *If the people may juſtifie force to re-gaine due liberty*, what Monarchy, what Ariſtocracy, what Popular eſtate can remaine ſecure? The *French* ſubjects being in generall oppreſſed with taxes, may revolt from their King, if this Tenet be good; and ſo may the *Spaniſh*: The *Poliſh* Peaſants may rebell againſt the King and their Lords, for that they hold them in villinage: and the Townſmen and Boores in *Holland*, and the Piſani in *Venice* againſt the States, for their impoſing on them terrible excizes. This Tenet, or Poſition, may quadrate, it may be, with the *Iriſh* Rebels, (for they pretend by force to re-gaine due liberty) but never with loyall ſubjects. And ſurely this Tenet, or Poſition afore-ſaid, is dangerous to all the Monarchies and States of the world, yea, even to Parliaments themſelves, if rightly conſidered; and oppoſite alſo to the law of God and Nations.

The Obſervator telleth us, *Page* 13. That *where the people by publike authority will ſeeke an inconvenience to themſelves, and the King is not ſo much intereſted as themſelves, it is more inconvenience to deny it, then grant it.* This is a ſtrange aſſertion, and againſt all rule of Monarchicall Government. Suppoſe (for a ſuppoſition is no fallacie) that a Chriſtian people ſhould generally (which God forbid) deſire to revolt from Chriſtianity to Mahometaniſme; ſhould their King

King grant it? they ſeeme to be more intereſſed then the King, becauſe it concernes their ſalvation or damnation; is it injuſtice therefore to deny it? Surely no; but moſt juſt and acceptable to God to hinder them from it. Suppoſe this Nation ſhould in generall (which God of his goodneſſe prohibit) deſire to turne Anabaptiſts and Browniſts, whereof there are too many already; is the King bound, or ought he to condeſcend to their deſires? Surely no: but as Gods Vice-gerent, to oppoſe ſuch exorbitant inclinations of the people. But if the Aſſertion of the Obſervator be good, *Pilate* ſeemes to be excuſeable, whom the Obſervator condemneth in the page before: for the *Jewes* ſought by authority of the Prieſts and Elders to crucifie Chriſt, (an inconvenience enough to themſelves) and inſtanced a law, and that *by that law he ought to die, Joh. 19. 7.* and the *Jewes* were more intereſted in Chriſt, (he being their Countrey-man, and ſubject to their lawes, as they conceived) then was *Pilate*; ſo that according to this Aſſertion of the Obſervator, *It was more inconvenience and injuſtice for* Pilate *to have denyed to the Jewes* Chriſt *to have beene crucified, then to have granted it.* Judica Deus.

The Obſervator ſaith, *Page* 17. *The name of a King is great, I confeſſe, and worthy of great honour; but is not the name of a People greater?*

The Obſervator muſt give me leave to tell him, that in Monarchies, where there were or are Kings, the name of a people neither was, nor is greater then the name of a King: *Senatus populúſque Romanus*, ceaſed to be, and gave place to the name of *Cæſar*. The *Ottoman* name at this day, dignifies that great Empire ſubject to that family; and ſo doth the name of *Sophy* the Perſian. The name of the Houſe of *Auſtria* decorates their dominions; and ſo doth that of *Bourbon*, France: And I ſee no reaſon but why the name of *Stewart* ſhould doe as much in England. If it be asked, But what availeth the names of theſe great Monarches, without their Kingdomes or Dominions? The anſwer is, That Dominions are to Monarches, as it were, materiall ſubjects; themſelves (from whom their names reſult) as Formes. Now as the Forme is more worthy then its Matter, ſo is a free Monarch more worthy then his Empire, in reſpect of dignity politicall.

And indeed the word Monarch inferres as much; for Monarchy is derived from *Monarch*, not Monarch from Monarchy. But

it may be ſome will inſtance from hence, that if it be ſo, the good of a Monarch ſeemes to be preferred before the good of all his Subjects in generall, ſo that a whole Kingdome or Empire ſhould bee utterly pillaged, waſted, and conſumed, rather then his Treaſures be deſtroyed. Not ſo: for though Empires and Kingdomes are but as materiall ſubjects, and Monarches as formes politicall; yet even as in nature, formes cannot ſubſiſt without matter, (from whoſe power all formes, except the rationall ſoule, are educed;) ſo in policy, Monarchs cannot ſubſiſt without their people, from whoſe ſubjection and obedience their power is educed immediately from God, as are formes from matter by nature: the good of both therefore muſt be conſiſtent together, ſo that not *ſalus populi* alone, as the *Obſervator* would have it, but *ſalus Regis & populi*, is the true end of Monarchicall government.

Thus have I briefly anſwered the Obſervators chiefe arguments, from whence all his other aſſertions and concluſions are drawne, deſireing him and all others, rather to ſtudy how to produce reaſons for obedience (where it is due) to Monarchs, then to derogate from Monarchicall government: to endeavour how to incline, and not to diſaffect (by nice poſitions) the diſtracted mindes of the people towards the King: to propound prudent Arguments which might move the King to accommodate with his Parliament; and not by leſſening his authority, to divert him from it. Finally, to ſeeke how to unite the King and Common-wealth, and not to diſ-unite them by impertinent and invalid concluſions. God of his goodneſſe grant co-union (as much as in this world may be) betweene our Soveraigne and His people, that He may know truely how to rule, and they to obey.

ANIMADVER-

ANIMADVERSIONS upon those Notes which the late OBSERVATOR hath published upon the seven *Doctrines*, and *Positions*, which the KING by way of *Recapitulation* (he saith) layes open so offensive.

POSITION I.

THat the Parliament hath an absolute, indisputable power of declaring Law: so that all the right of the King and People depends upon their pleasure.

To this the *Observator* saith,

It hath beene answered, That this Power must rest in them, or in the King, or in some inferiour Court; or else all suits will be endlesse, and it cannot rest more safely then in Parliament.

ANIMADVERSION I.

THe *Observator* hath contracted His Majesties words, but hath kept the sense in more generall termes, and seemes (though but faintly) to justifie the *Position*, by approving (I know not whose answer) that this Power can rest no where more safely, then in Parliament. He meanes the Parliament without the King; if he had allowed the King his place in Parliament, I know no understanding man but will easily subscribe, That the King in Parliament, or the Parliament with him, have an absolute undisputable power, both to make, and declare Law; and to end all suits of what kind soever, determinable by humane Law within the Kingdome. And here is the most safe resting of this power (and here it hath ever rested) & not in the King alone (who claimes not that Power, but is willing to governe His Subjects according to the known Lawes) and much lesse in any inferiour Court. But that such an absolute undisputable Power of declaring Law, as hath lately beene assumed, by the *Major* part of the present

ſitting Parliament, ſhould be reſting in them, is neither neceſſary for the ending of ſuites, nor can be ſafe either for King or Subject. If they may declare that for a Law, a fundamentall Law, which never yet was exacted, or had any being; and deny the plaine undoubted Lawes that have beene Enacted, or fruſtrate them by ſome unheard of interpretation, (as if ſuch interpretation had been ſome mentall (or rather Parliamentall) reſervation, laid up within the Parliament wals, to be produced upon emergent occaſions, by their Succeſſours) they will have ſo full an Arbitrary power, that the right and ſafety of King and People muſt wholly depend upon their Votes. Which power can never be ſafe, either for King, or People, nor can they produce one preſident that may warrant ſuch a Power. But they are not bound, or limited by ſuch preſidents, That's the ſecond *Poſition*.

POSITION II.

That Parliaments are bound to no Preſidents.

OBSERVATOUR.

Statutes are not binding to them, why then ſhould Parliaments? Yet there is no obligation ſtronger then the honour & juſtice of a Parliament.

ANIMADVERSION II.

IF Statutes be not binding to them, there is no reaſon that preſidents ſhould be. And he ſaith true, Statutes are not binding to them, that is, *de facto*, they are not (for they in ſome things goe directly againſt them) but *de jure*, they are; that is, they ought to be binding to them, till they be repealed by the ſame power they were made, that is, by Bill orderly paſſed both Houſes, and ratified by His Majeſties Royall aſſent. And unleſſe they can ſhew better reaſon then their bare Aſſertion, Preſidents (as they are the beſt warrant, ſo) they are, and ought to be the limits and bounds of their proceedings. He might have ſaid as truly, That Oathes are not binding to them: and therefore neither Statutes, nor preſidents, But the *Obſervator* tells us (*Pag.* 44.) That the Oathes of Supremacie and Allegiance are not endangered, by making the Kingdome, & not the King, the proper ſubject of power. And he yeelds reaſon for it. *For* (ſaith he) *hee that aſcribes more to the whole Vniverſality, then to the King, yet aſcribes to the King a true Supremacie of Power and Honour above all particulars.* I wonder what he meanes by a true Supremacie of Power and Honour above all particulars: Surely he meanes nothing but priority

of

of place, and height of Title; for hee is allowed little power over ſome particulars, namely, over the Members of either Houſe, and whom elſe they pleaſe to exempt (as they did Serjeant Major *Skippon* for his Power and Commands.) But this diſtinction helpes them The Members of either Houſe are ſharers in that Supremacie which is in the Univerſality and above his; and by the power of that Supremacie they can exempt whom they pleaſe from the power of this, Inferiour (pardon the phraſe, and the abſurdities cannot be expreſt without a Soleciſme) Supremacie. Very good: but in good ſober ſadneſſe, doth the *Obſervator* thinke this diſtinction was thought on by the Framers and enjoyners of that Oath, or that the Members of the Houſe, at their entring the Houſe, did take their Oath to the King, as to the Supreme over all, with exception of themſelves, or reſervation of an higher Supremacy to themſelves, when they ſhould be entred? It is hardly credible: Nor do all (that deſire to tender all due honour to the Parliament) beleeve that they are ſo the Univerſality, or the Kingdome, as the *Obſervator* preſumes. They are truſted by the Univerſality and Kingdome, and we pray, that they may diſcharge that truſt, not knowing, but that a multitude of men ſubject (every one of them) to errour, may faile in their judgement, and being not exempted from the common condition of the ſinfull Sons of *Adam*, may poſſibly, not rightly diſcharge the truſt committed to them, as well as the King, who is blaſted with foule failings and errours, in judgement. Me thinks, men that ſo much deteſt Popery, ſhould not borrow the grounds of their reaſoning from them: and I ſhall as ſoone beleeve the Councell of *Trent*, telling us that they are the Univerſall Church, and therefore cannot poſſibly erre, as that the Parliament is the Univerſall, unerring, and unpervertibly juſt body of the Kingdome. And ſurely, the Spirit of declaring muſt needs reſide in a ſtrangely large meaſure in them, who have power thus to declare, not onely Law, but Oathes too: a greater, then which the Popes flatterers never gave him: and hardly ever any Pope aſſumed ſo great: *Quo te conſtringam mutantem Protea nodo?* How ſhall theſe men be bound to do right, who ſo eaſily untie the knots of theſe ſacred bookes of Law and Oathes? why, yes: There is a bond that will do it; The obligation of the Juſtice, and honour of a Parliament. But can any man be ſure, that they whom neither Law, Cuſtome, & Preſidents of their Anceſtors, nor Oathes can bind, will be alwayes held

in

in by the obligation of Justice and Honour? Is it not possible that they may (in time) finde a power in themselves of declaring that obligation void, as well as they have done the other? The same obligation of Justice and Honour, is as strong upon Kings, (and hath ever beene held more powerfull and obstrictive in them, then in any State mannaged by a Community;) and yet they dare not trust His Majesty, though so obliged. The *Observatour* then must pardon me, if I desire, they may rather be held in, (and hold themselves so to be) by the old obligations of Law, Presidents, and Oathes, rather then that the Kings liege people should be put wholly to confide to that single obligation of the Justice and Honour of a Parliament.

Position III.

That they are Parliaments, and may judge of publike necessity without the King, and dispose of any thing.

Observatour.

They may not desert the King, but being deserted by the King, when the Kingdome is in distresse, they may judge of that distresse, and relieve it; and are to be accompted by vertue of representation, as the whole body of the State.

Animadversion III.

His Majestie sets downe this Position in more words, but these are much to the same purpose; and upon these the inference which His Majestie makes, followes undeniably, That then the life and liberty of the subject, and all good Lawes made for the security of them, may be disposed of, and repealed by the major part of both Houses, at any time present, and by any wayes and meanes procured so to be; and His Majestie shall have no power to protect them. They see nothing that see not the misery which may follow upon such a vast transcendency of arbitrary power, if it were invested in the Parliament, which (I dare boldly say) was never claimed by any Parliament, though in conjunction with (the head of it) the King. Every (the meanest) Subject hath such a right and propriety in his goods, that without Law they cannot bee taken from him, though to be employed for the publike good. And though the safety of the people be the highest Law, (and that doe (many times)

give

give a power above other Laws, and againſt them, to the ſupreame Magiſtracy in a State, to diſpoſe of private mens eſtates, yet the unchangeable rule of Juſtice muſt have place, even in that higheſt Law, and that requires a compenſation to be made to thoſe, whoſe eſtates or goods are ſo diſpoſed of; and never gives power to uphold the publike good with private injury. Nor can it be imagined, that a State upheld by ſuch helpes, ſhould not be able to make a juſt compenſation to thoſe, by whom it was upheld. But let us heare our *Obſervatour*: They may not (ſaith hee) deſert the King. Gramercy for that; I am glad to heare they have yet any obligation upon them to tye them to the King. Yet I know not well what he meanes by deſerting the King: if hee meane it in that ſenſe, which he doth the Kings deſerting of them, which (out of queſtion) is his not aſſenting to whatſoever they ſhall thinke fit; Then in reaſon they ſhould not, by their diſallowing all his Propoſals, have driven him to diſſent from theirs, and ſo to have deſerted them. Well: But being deſerted by the King, when the Kingdome is in diſtreſſe, they may judge of that diſtreſſe, and relieve it. All their power then is upon ſuppoſition of the Kings deſerting them: So that if it appeare, that His Majeſtie hath not deſerted them (as many good men beleeve He hath not, in the redreſſe of any reall grievance,) then they have no ſuch power. And however, they claime this power onely when the Kingdome is in diſtreſſe; But how if the Kingdome be not in diſtreſſe, or (at leaſt) that diſtreſſe be only or principally cauſed by their claiming of that power, which cannot conſiſt with the Honour and Royall Eſtate of His Majeſtie, which all men (by their late Proteſtation) are bound to defend? If it be ſo, wee may eaſily diſcerne how farre they may ſtretch this power, which they claime onely in order to diſtreſſe; and that they may make as much uſe of it, as the Pope doth of his power in temporals; *In ordine ad ſpiritualia*. He claimes no more, (though ſome have ſaid he hath right to more;) and the Parliament will need no more, to doe as much as he takes upon him to do with Chriſtian Princes and States. But they muſt have a right to their power in this caſe of diſtreſſe; Whence have they that? why, they have it as the whole body of the State, and that they are, and muſt be ſo accompted, by vertue of repreſentation. Very good. But let us conſider his words a little more. There is no underſtanding man, but muſt and will acknowledge (unleſſe he

wilfully derogate from them,) that the Parliament repreſents the body of the State, for thoſe ends for which they convene, as an Ambaſſadour doth the Prince that ſends him, in the mannage of that buſineſſe for which he is ſent: But this is not an abſolute repreſentation to all intents and purpoſes. Beſides, whom doe they repreſent? The body (ſaith he) of the State. Be it ſo: but it is onely the Body without the Head. And if they were not by repreſentation onely, but really, the whole body of the People (if it were poſſible they ſhould convene together) they are all but an aſſembly of Subjects, of men to be governed, not to rule; to be commanded, not to command their Head and Soveraigne: and then there can be no virtue of repreſentation that can advance them to the power, which the *Obſervatour* aſcribes to them, when ſuch power was never in the whole Body, which is repreſented. No? never ſuch power in the whole body? I know the *Obſervatours* ſtomack will riſe here. Did not the Peoples conſent at firſt make Kings, and conveigh power into their hands? Truely Sir, not ſolely: but grant it, what then?
Pag. 2. Marry, he ſaith, then it is a principle in nature. *Quicquid efficit tale, eſt magis tale*; In *Engliſh*, If the People make a King, they are more King themſelves; or if they give power, they have more power: and may reſume and exerciſe that power when they pleaſe. Excellent learning, and well applyed; I beleeve hee learn'd this piece from *Suarez* the Jeſuite. But the *Obſervatour* may know, that that rule admits many limitations; and ſurely, it holds onely *in cauſis totalibus*, which the People are not in the conſtitution of Kings. But ſuppoſe their conſent did at firſt give power to Kings; when their conſent is given for them and their Succeſſours, to a King and His Heires, can the ſucceeding people cut off the entaile, and retract the conſent their Anceſtours have given? By what right? with what juſtice? I know not: but the people may contract for them and their Succeſſours in the conveighance of Soveraigne power, (if ever they had it in their hands to give) as any man may in the conveighance of his lands or goods: and that ſuch conveighance may be as binding to Succeſſours in the one, as in the other; and then I am ſure they cannot have power at all times, and in all ſucceeding ages, to reſume what they have ſo given. Our Kings right (ſo far as it is derived from the people) is of this kinde. And if he had no other grounds for his claime of Soveraignty, (as it is moſt certaine that he hath) ſuch a conſent once granted, were ſufficient

to

to binde the people, that it cannot ever be lawfull for them, by a major part of them, (comming in with a *Nolumus hunc regnare ſuper nos*) to deprive him of that right. But ſurely, they would never make ſo abſolute a grant of their power to Princes, as to deveſt themſelves of it. Good Sir, ſhew me that proviſo in their grant. But it ſeemes to you unnaturall they ſhould: I doe not wonder it ſhould ſeeme ſo to you, who make it agreeable to the *cleareſt beames of humane reaſon, and the ſtrongeſt inclinations of nature*; (and by conſequence, as you would perſwade the World, juſtifiable:) *For every private man to defend himſelfe by force, if aſſaulted, though by the force of a Magiſtrate, or his owne Father; and though he be not without all confidence by flight, &c.* I wiſh whileſt you have ſuch recourſe to nature, you would not forget Chriſtianity, which teaches ſubjection and obedience, and gives no liberty (either to private men, or the major part of the Communalty) of reſiſtance; but ſaith, *They that reſiſt, ſhall receive to themſelves damnation.* And if the *Obſervatur* be a Gentleman, he ſhould tender how he hath recourſe to nature in point of right, leſt he give occaſion to ſome *Wat. Tyler's* Chaplaine, to preach againe upon that Text:

Pag. 3.

Pag. 16

Rom. 13

When Adam *dolve, and* Eve *ſpan,*
Who was then a Gentleman.

He may finde a goodly Sermon upon that Text, ſet downe by *John Stow*, in *Richard* the ſecond, and ſuch Doctrine delivered upon it; the uſe of which would ſhake his title to his inheritance, and the name of Gentleman.

POSITION IV.

That no Member of the Parliament ought to be troubled for Treaſon, &c. without leave.

OBSERVATOUR.

This is intended of ſuſpitions onely, and when leave may ſeaſonably be had; and when competent accuſers appeare not in the impeachment.

ANIMADVERSION IV.

His Majeſtie hath ſaid ſo much of this, and ſo little of it hath beene anſwered, (or indeed is anſwerable,) that I ſhall not need

to ſay much: Onely I obſerve the modeſty of this *Obſervatour*, that hee doth not abſolutely ſay they are not to be troubled for thoſe crimes, but not upon ſuſpition onely; &c. I know not what hee may call ſuſpitions, but I beleeve the beſt evidences may eaſily be held for bare ſuſpitions, if they may not have liberty to ſpeake out; and that they cannot have, unleſſe the accuſed be firſt in ſafe cuſtody, and brought to tryall, where they may legally be produced. And, I beleeve, few wiſe men will thinke it reaſonable, that the grounds of ſuſpition of Treaſon ſhould neceſſarily be opened before tryall.

Position V.

That the Soveraigne power reſides in both Houſes of Parliament, The King having no negative voyce.

Obſervatour.

This power is not claimed as ordinary, nor to any purpoſe, but to ſave the Kingdome from ruine; and in caſe, where the King is ſo ſeduced, as that he prefers dangerous men, and perſecutes his loyall Subjects.

Animadversion V.

His Majeſtie infers upon this Poſition, *That himſelfe muſt be ſubject to their Commands.* This ſounds but harſhly in the eares of loyall Subjects, That any poſture wherein they can be put, can raiſe Subjects to a capacity of Soveraignty, and reduce their Soveraigne to become their Subject. But hee comforts us here, and tels us, this power is not claimed as ordinary, nor to any purpoſe, &c. This is but poore comfort: it is not, but it may be in good time, if they pleaſe. Hee doth not ſay, they ſhall not hereafter, and cannot claime it as ordinary, and to other purpoſes then that he names. So that there may be other cauſes that may make them claime this power, as well as this. But indeed they need no other, if it be in their power to declare that to be the caſe of the King and Kingdome when they pleaſe: But they will never doe it, but where there is a juſt cauſe for it, and the truth leads them to it. Truly, I believe honourably of the Juſtice and Wiſedome of Parliaments; but I doe beleeve that they are not either infallible, or that they cannot poſſibly do amiſſe. And the *Obſervator* muſt bring better arguments; (and I fear he cannot bring ſo good) to make me beleeve otherwiſe, then

then ever yet were brought for the infallibility of a generall Councell. But I have ſaid enough for the preſent of the reſidence of ſoveraigne power in the Parliament, and the ground of their claime to it, *by the vertue of repreſentation* in my third *Animadverſion*. I ſhall here onely give the Reader a briefe gloſſe upon the language here uſed by the *Obſervatour* to ſave the Kingdome from ruine, (that is from Monarchy or being governed by the King.) The King is ſeduced, that is, he is perſwaded (by his owne underſtanding, and other evill Counſellours,) not to part with his Soveraignty, nor to become a Subject to his Subjects. He preferres dangerous men, (that is, ſuch as would have him ſtill to be their King,) perſecutes his loyall Subjects, that is, ſuch as would rule him, and the people at their pleaſure.

POSITION VI.

That the Levying of Forces againſt the perſonall commands of the King, (though accompanied with his preſence) is not levying of warre againſt the King: but warre againſt his authority, not Perſon, is warre againſt the King.

OBSERVATOUR.

If this were not ſo, the Parliament ſeeing a ſeduced King, ruining himſelfe, and the Kingdome, could not ſave both, but ſtand and looke on.

ANIMADVERSION VI.

I Thought this Poſition ſo ſtrangely Paradoxall, and ſo apparently contrary to reaſon, and common ſenſe, that no man would have appeared in the defence of it. Yet this *Obſervator* never bluſhes, nor blinkes at it, but affirmes it ſtoutly. But for all that, I ſhall beleeve very ſlowly, That the Kings Perſon can at any time be without the King, or without his Authority: Or that they may deſtroy the Kings Perſon to preſerve the King. My faith is not ſtrong enough to beleeve theſe ſublime points, and myſteries of State: I ſhall ſubſcribe thus farre, That warre againſt the Kings Authority (though in the abſence of his Perſon) is warre againſt the King: But that the King and his Perſon ſhould be in two places, will never (I feare) downe with mee. But however Ile ſee his reaſon: What's that? *Why elſe the Parliament ſeeing a ſeduced King, ruining himſelfe and his King-*

dome, could not ſave both, but muſt ſtand and looke on. Surely this reaſon is full of weight, and ready to burſt, it is ſo big with probability. I ſuppoſe the *Reader* underſtands his language here by my former gloſſe: But if we ſhould take the words as they ſound, the reaſon would ſeeme as ſtrange, as that which it is brought to confirme. The King ruining himſelfe, and his Kingdome, a mad King, or an Ideot (hee meanes) and then 'twere fit the Parliament appointed him a guardian. *Ruining himſelfe and his Kingdome.* Is it poſſible, that the King ſhould ruine himſelfe and his Kingdome. What? The King alone? Is he alone able to doe it without the people? It is hardly credible: If he have the people on his ſide, and a prevailing major party, I thinke the *Obſervatour* (ſtanding to his own Principles) will not deny that he hath Soveraigne power with him, and that it is unnaturall to thinke the Community ſhould deſtroy it ſelfe. But the Community (he will ſay) is to be lookt at in Parliament. Well, But good Sir, may not the people withdraw the power of repreſentation, which they granted to the Parliament; was their grant ſo abſolute, and ſo irrevocable, that they diſpoſſeſſe themſelves wholly of taking or exerciſing that power, in their owne proper perſons? Remember your principles about the conveying of Soveraigne power into the hands of Kings; and if you can ſhew no better Cards for their power of repreſentation, than the peoples revocable conſent, (and I would faine know why it ſhould be more revocable from Kings than men) you will find their tenure in it very tickle.

POSITION VII.

That according to ſome Parliaments they may depoſe Kings.

OBSERVATOUR.

'Tis denied that any King was depoſed by a free Parliament, fairely elected.

ANIMADVERSION VII.

I Like this note better then all the reſt, and am wholly of his mind: That never any free Parliament, fairely elected, depoſed any King: and I hope (whatſoever his principles ſeeme to inſinuate) they doe not beleeve they have power to do it, pray that they may never attempt, (at leaſt, not be able) to depoſe the King, or deſtroy Monarchy.

FINIS.